

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Connors	Team: Squad #12	CCRB Case #: 201803989	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/19/2018 7:45 PM	Location of Incident: in front of § 87(2)(b)	Precinct: 79	18 Mo. SOL 11/19/2019	EO SOL 11/19/2019	
Date/Time CV Reported Sat, 05/19/2018 8:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/19/2018 8:27 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Neysa Gonzalez	04271	960606	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lynne Blas	20258	958314	079 PCT
2. SGT Joseph Kosek	01427	949175	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Neysa Gonzalez	Discourtesy: Police Officer Neysa Gonzalez acted discourteously toward § 87(2)(b)	§ 87(2)(b)
B.POF Neysa Gonzalez	Abuse: Police Officer Neysa Gonzalez interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
C.POF Neysa Gonzalez	Abuse: Police Officer Neysa Gonzalez damaged § 87(2)(b)'s property.	§ 87(2)(b)
D.POF Neysa Gonzalez	Abuse: Police Officer Neysa Gonzalez refused to provide her name to § 87(2)(b)	§ 87(2)(b)
E.POF Neysa Gonzalez	Abuse: Police Officer Neysa Gonzalez refused to provide her shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On May 19, 2018, § 87(2)(b) filed this complaint with the CCRB via the online website as a complainant witness. The complaint was filed on behalf of § 87(2)(b) and § 87(2)(b) with the CCRB.

On May 19, 2018, at approximately 6:45 p.m., in front of § 87(2)(b) in Brooklyn, § 87(2)(b) and § 87(2)(b) were socializing. There were sealed bottles of beer in plain view. Three officers, PO Neysa Gonzalez, PO Lynne Blas, and Sgt. Joseph Kosek of the 79th Precinct approached and immediately requested everyone's identification. While the officers were checking their identification, § 87(2)(b) used his cell phone to record the officers. When § 87(2)(b) approached PO Gonzalez, she slapped the phone out from his hands (**Allegation A and Allegation B, Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) picked up the phone from the ground and observed a crack to his phone's screen (**Allegation C, Abuse of Authority**, § 87(2)(g)). PO Gonzalez then told him to back up. § 87(2)(b) complied and continued to record the incident for a few more seconds while requesting PO Gonzalez's name and shield number. PO Gonzalez shook her head and smiled without providing her name and shield number (**Allegation D and Allegation E, Abuse of Authority**, § 87(2)(g)). After issuing the summonses to the three individuals, the officers left the scene without any further interaction with the group.

Cellphone video was provided by § 87(2)(b). Also available to the investigation was PO Gonzalez's, PO Blas, and Sgt. Kosek's Body-Worn Camera (BWC) footage from this incident. However, the BWC footage does not depict the incident itself.

One summons each was issued to § 87(2)(b) and § 87(2)(b) for § 87(2)(b).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Neysa Gonzalez acted discourteously toward § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Neysa Gonzalez interfered with § 87(2)(b)'s use of a recording device.

It is undisputed that the civilians were socializing amongst themselves with open containers of alcohol in the immediate vicinity. It is also undisputed that officers stopped three of the male civilians to issue summonses for the open containers. During that interaction, § 87(2)(b) approached the officers to record their names and shield numbers using his cell phone. § 87(2)(b) provided an unsworn phone statement and explained he successfully recorded Sgt. Kosek's and PO Blas' name and shield number without incident. When he approached PO Gonzalez to record her information, she slapped the cell phone from his hand causing it to hit the ground (Board Review 01). During his in-person statement, § 87(2)(b) stated he observed PO Gonzalez slap the cell phone from § 87(2)(b) hands (Board Review 02). In unsworn phone statements from § 87(2)(b) and § 87(2)(b) they provided consistent statements regarding PO Gonzalez slapping § 87(2)(b) phone from his hand (Board Review 03 and 04).



201803989_20180621_1542_DM.MOV

The above is a 01:24 minute clip of cell phone video footage of this incident. § 87(2)(g)
§ 87(2)(b) The video footage was provided by
§ 87(2)(b) (Board Review 05).

At the 0:34 second mark, § 87(2)(b) says, "Let me make sure I get your badge" and steps closer to Sgt. Kosek, who holds up his badge and states his name. At the 0:38 second mark, § 87(2)(b) steps toward PO Blas, records her shield, and says, "I got you." At 0:40, he steps toward PO Gonzalez, who extends her arm to slap the phone out of his hand. At 0:42, after PO Gonzalez has already made contact with the phone, she says, "Get out of my face please." From 0:41 through 0:51, the screen is blank, and § 87(2)(b) can be heard saying, "You broke my phone." At 0:52, he picks up his phone again and asks PO Gonzalez what her name is. PO Gonzalez says, "Get out of my face." § 87(2)(b) says, "Miss officer, can you tell me your name and your badge number please?" and at the 0:57-0:58 mark, she shakes her head and mouths, "No." At 1:02, Sgt. Kosek can be heard telling § 87(2)(b) to back up, so he moves back several feet and says "That's okay, I can zoom." At 1:06, Sgt. Kosek says, "Thank you, I appreciate it." At 1:10, § 87(2)(b) says, "I got each and every one of y'all." Although the camera zooms in on PO Gonzalez, it is impossible to read her badge from that distance. At 1:19, § 87(2)(b) says, "She smacked the phone out of my hand, this officer right here" and points the phone at PO Gonzalez. She waves back at him and smiles.

During her CCRB interview, PO Gonzalez denied slapping § 87(2)(b) cell phone from his hand. PO Gonzalez testified § 87(2)(b) walked within one-arm's length of her person and that of PO Blas, which prompted her to push his hand away. PO Gonzalez testified that § 87(2)(b) did not make physical contact with her or another officer. PO Gonzalez denied any intent to knock § 87(2)(b) phone to the ground and stated she "simply moved his arm away" because he was not recording from a safe distance. PO Gonzalez determined this unsafe distance to be within one-arm's length of PO Blas. PO Gonzalez testified she had previously "been notified by the FIO (Field Intelligence Officer) squad, and having seen it personally, that cell phones can be covered as guns." When asked if she observed § 87(2)(b) cell phone to have any modifications that might reasonably lead her to believe the cell phone could have been a firearm PO Gonzalez stated, "None that I can tell, but I was not going to take that chance." Neither Sgt. Kosek or PO Blas expressed a concern regarding § 87(2)(b) phone or his actions.

Aside from filming from an unsafe distance, both PO Gonzalez and Sgt. Kosek testified that § 87(2)(b) could have been arrested for Obstruction of Governmental Administration (OGA). The officers stated they used their discretion not to arrest § 87(2)(b) for OGA (Board Review 06, 07, 08).

Patrol Guide Procedure 203-29 states individuals have a right to lawfully observe and/or record police activity. Officers can not intentionally block or obstruct cameras or other recording devices when there is no legitimate law enforcement reason to do so. Absent additional actions constituting a violation of the law, an individual cannot be arrested for:

- (1) Taking photographs, videotaping, or making a digital recording.

(2) Requesting or making note of shield numbers or names of members of the service. An arrest for Obstruction of Governmental Administration, Penal Law Section 195.05, requires probable cause to believe that a person(s) is obstructing governmental administration. Actual interference with performance of an official police function is required. Interference can include actual physical force or intruding into the physical space necessary to safely perform police operations and refusing to obey an order to move back (Board Review 09).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: Police Officer Neysa Gonzalez damaged § 87(2)(b) property.

In an unsworn phone statement, § 87(2)(b) stated alleged that his cell phone screen had cracked because of PO Gonzalez’s action. As noted in the above cell phone video footage, § 87(2)(b) can be heard saying, “You broke my phone.” Receipts documenting any repairs to § 87(2)(b) phone were not provided to the investigation as § 87(2)(b) became uncooperative with the investigation.

All the other civilians observed § 87(2)(b) phone fall to the ground. However, during his sworn statement, § 87(2)(b) stated he was unsure if § 87(2)(b) phone had been damaged. None of the other civilians observed any damage to § 87(2)(b) phone.

The cell phone captured in the discussion regarding Allegation A and B does appear to be damaged but belongs to § 87(2)(b) who had § 87(2)(b) electronically forward the original video from his cell phone.

PO Gonzalez testified she did not personally observe any damage to § 87(2)(b) cell phone. None of the other officers remembered that § 87(2)(b) complained his cell phone had been damaged.

§ 87(2)(g)

Allegation D – Abuse of Authority: Police Officer Neysa Gonzalez refused to provide her name to § 87(2)(b)

Allegation E – Abuse of Authority: Police Officer Neysa Gonzalez refused to provide her shield number to § 87(2)(b)

After picking up his cell phone from the ground, § 87(2)(b) continued recording PO Gonzalez. As depicted in the above footage, § 87(2)(b) made a verbal request for PO Gonzalez's name and shield number to which she shakes her head and mouths, "No."

Patrol Guide Procedure 203-09 states officers must courteously and clearly state rank, name, shield number and command, or otherwise provide them, to anyone who requests them to do so (Board Review 10).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to three CCRB complaints and has been named a victim in four allegations (Board Review 11).
 - § 87(2)(b)
 -
- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 11).
- This is the first CCRB complaint to which § 87(2)(b) has been party (Board Review 11).
- PO Neysa Gonzalez has been a member-of-service for two years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of December 6, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 12).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Squad No.: **12**

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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